

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SEAN JEFFERY RICHSON-BEY,

Plaintiff,

v.

JUAREZ, *et al.*,

Defendants.

Case No. 1:22-cv-00567-NODJ-BAM (PC)

ORDER GRANTING PLAINTIFF'S
UNOPPOSED MOTION SEEKING
VOLUNTARY DISMISSAL BY COURT
ORDER

(ECF No. 45)

Plaintiff Sean Jeffery Richson-Bey ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendant Juarez for excessive force in violation of the Eighth Amendment.

On December 7, 2023, Defendant filed a motion to revoke Plaintiff's *in forma pauperis* status on the ground that Plaintiff has been released from custody since initiating this action. (ECF No. 43.) The Court stayed briefing on the motion and directed Plaintiff to submit an application to proceed *in forma pauperis* for a non-prisoner within thirty days. (ECF No. 44.)

On January 12, 2024, Plaintiff filed a notice of withdrawal/voluntary dismissal, stating that Plaintiff moves to voluntarily withdraw this action. (ECF No. 45.) Construing the notice as a motion for voluntary dismissal pursuant to Federal Rule of Civil Procedure 41(a)(2), the Court directed Defendant to file an opposition or statement of non-opposition to the motion, or to obtain a stipulation of dismissal signed by all parties appearing in this action. (ECF No. 46.)

1 On January 17, 2024, Defendant filed a notice of non-opposition to Plaintiff's motion.
2 (ECF No. 47.)

3 Pursuant to Federal Rule of Civil Procedure 41(a)(2), and in light of Defendant's
4 statement of non-opposition, the Court grants the motion.

5 Accordingly, IT IS HEREBY ORDERED as follows:

- 6 1. Plaintiff's motion seeking voluntary dismissal of this action pursuant to Federal Rule of
7 Civil Procedure 41(a)(2), (ECF No. 45), is GRANTED;
- 8 2. This action is dismissed, without prejudice; and
- 9 3. The Clerk of the Court is directed to terminate all pending motions and deadlines, assign a
10 District Judge for the purposes of closing this case, and close this case.

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12 IT IS SO ORDERED.

13 Dated: January 17, 2024

/s/ Barbara A. McAuliffe
14 UNITED STATES MAGISTRATE JUDGE
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